

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Montana Visibility Plan

9.6 MONTANA VISIBILITY PLAN

Replaces Page: 15-1

Dated: May 20, 1985

October 20, 2011

INTRODUCTION

This chapter of the State Implementation Plan (SIP) is designed to meet the visibility requirements set forth by Congress in amendments to the Federal Clean Air Act of 1977 (42 USC 7491). This Visibility Plan (Plan), however, is limited to the provisions set forth in 40 CFR 51.305 and 51.307, as noted in the settlement agreement between the Environmental Protection Agency and the Environmental Defense Fund (Environmental Defense Fund v. Ruckleshaus, No. C82-6850 RPA), and 40 CFR 51.308(d)(3)(v)(E) pertaining to smoke management. The Plan is, therefore, divided into four general sections: (1) Ambient Monitoring Strategy, (2) New Source Review, (3) Smoke Management, and (4) Plan Review.

The development of this Plan required coordination between the former Montana Department of Health and Environmental Sciences (Department) and the Federal Land Managers (FLM). As evidence to this process, the Department had numerous discussions with the National Park Service and the Forest Service. In addition, the FLMs were given the opportunity to review the New Source Review (NSR) visibility rules on two occasions prior to a Board of Health and Environmental Sciences (Board) hearing (August 1, 1984 and January 3, 1985).

The FLMs were also given two opportunities to review the monitoring plan and a draft version of the SIP prior to a Board hearing (April 16, 1985 and June 4, 1985). Comments by the FLMs were incorporated, where appropriate, in the final NSR requirements and monitoring plan. The hearing for the visibility rules occurred on May 17, 1985 and again on July 19, 1985. The hearing for the monitoring plan and SIP was on July 19, 1985. The FLMs were notified more than 30 days in advance of these hearing dates.

AMBIENT MONITORING STRATEGY

The requirements for the ambient monitoring strategy are published in 40 CFR 51.305. The Department will comply with these requirements by implementing the following Plan Objectives:

Plan Objectives

The Department will implement the Plan in order to meet the objectives of 42 USC 7491. Ambient monitoring shall be carried out in such a manner as to fulfill the following objectives:

- a. Determine existing impairment, if any, in mandatory Class I areas and the source(s) of impairment;
- b. Provide information for new source impact analyses;
- c. Determine actual effects on visibility from the operation of new sources; and
- d. Analyze visibility trends in order to evaluate progress toward meeting the national goal of visibility protection.

The Department will implement the four tasks above by:

1. Addressing and considering the need for visibility monitoring as part of its Annual Network Review process. FLMs will be given an opportunity to comment on the Annual Network Review before it becomes final.
2. Considering participation with the FLMs to operate visibility monitoring stations and share data.
3. Requesting from each FLM responsible for any Class I area copies of any and all past or existing programs designed to monitor or evaluate visibility.
4. Requesting copies of all future visibility data gathered by each FLM noted in #1 above on an annual basis, including any analysis and interpretation of such data.
5. Evaluating any data provided by FLMs in addition to any other data collected by the Department or any other appropriate source (such as proposed major stationary sources) as appropriate to assess Reasonable Further Progress requirements.

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Montana Visibility Plan

6. Requiring sources subject to the requirements of ARM 17.8.1110 to conduct periodic visibility analyses using existing visibility data, if available, or generating visibility data as a part of the permit application.

NEW SOURCE REVIEW

The Board adopted a number of rules designed to mitigate the effects of emissions on visibility. A copy of the rules pertaining to the regulation of emissions for purposes of visibility are provided in the following section.

Federal Requirement

Montana Response

40 CFR 51.307

(a)(1) - Provide for written notification of all affected Federal Land Managers (FLM) of any proposed new major stationary source or Major modification that may affect visibility in any Federal Class I area. Notification must be made in writing and be within 30 days of receipt of the application and at least 60 days prior to public hearings by the State. Such notification must also include all information relevant to the anticipated impacts on visibility.

Notification to the FLMs is provided in ARM 17.8.760(2) and 17.8.1108. ARM 17.8.1108 requires notification at the time the permit is submitted while ARM 17.8.759(4) requires notification at the time of the Department's preliminary determination. ARM 17.8.1106 requires an analysis of the visibility impacts of

Replaces Page: 15-4

Dated: May 20, 1985

October 20, 2011

Page: 4 of 8

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Montana Visibility Plan

Federal Requirement (cont.)

(a)(2) - Where the state requires or receives advance notification of a permit application. The state must notify all affected FLMs and receive comments within 30 days following the Department's preliminary determination as per ARM 17.8.759(4).

(a)(3) - Provide consideration for any analysis performed by the FLM which addresses the facility's impact of visibility on the Class I area. Where the state finds that the FLM analysis does not demonstrate (to the satisfaction of the State) an adverse impact, the State must, in the notice of public hearing, either explain its decision or give notice as to where the explanation can be obtained.

Montana Response. (cont.)

the proposed source which will be forwarded to the FLM for comment.

Montana statutes and rules do not provide enough time for a public hearing except for those cases where an environmental impact statement is required or if the facility falls under review of the Major Facility Siting Act. The 60-day hearing notification will be implemented where possible.

Advanced notification to the FLM is required by ARM 17.8.1108 (2) and 17.8.760(2). Both rules comply with the 30-day requirement.

The requirement for the Department to consider any analysis of the FLM is addressed in ARM 17.8.1109. This section allows the FLM to present to the Department a demonstration that the emissions may cause or contribute to significant impairment. If the Department agrees, the permit will not be granted. If the Department does not agree that an adverse impact will result, Montana statutory restrictions, make it impossible to formally give notice of the Department's explanation of the decision prior to a public hearing since none is usually provided.

Replaces Page: 15-5

Dated: May 20, 1985

October 20, 2011

Page: 5 of 8

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Montana Visibility Plan

Federal Requirement (cont.)

(b)(1) - Provide for the review of any new major stationary source or modification which may have an impact upon any integral vista.

(b)(2) – Provide for the review of any major stationary source or modification that proposes to locate in any area classified as nonattainment.

Montana Response (cont.)

The notification to the FLM of the preliminary determination is provided for in ARM 17.8.759(4): however, compliance with this notification requirement may be obtained prior to the Department's final decision. In order to comply with a Department decision contrary to the FLM, ARM 17.8.1109 requires a notification to the FLM within five days of the permit decision. This would allow for an appeal of the Department's decision before the Board.

This provision is not addressed in the SIP at this time. This omission was a part of the settlement agreement with EDA and EDF.

This requirement is addressed in ARM 17.8.1103. This rule clearly states that the visibility requirements apply to all major stationary sources or major modifications located in any attainment, unclassified, or non-attainment area.

Replaces Page: 15-6

Dated: May 20, 1985

October 20, 2011

Page: 6 of 8

STATE OF MONTANA
AIR QUALITY CONTROL
IMPLEMENTATION PLAN

Subject: Montana Visibility Plan

Federal Requirement (cont.)

(c) - Provide for review of any major stationary source or major modification in accordance with 40 CFR -51.24(o), (p)(1)-(2), and (q). In making such a review, the state must ensure the source's emissions will be consistent with making progress toward the national visibility goal. The state may take into account the cost of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the useful life of the source.

(d) The State may require monitoring of visibility in any Federal Class I area near the proposed new major modification for such purposes and by such means as the State deems necessary and appropriate.

Montana Response. (cont.)

Review of any major stationary source or major modification shall be conducted in accordance with the requirements provided in 40 CFR 51.24(o), (p)(1)-(2), and (q) by virtue of Montana's approved PSD program (ARM17.8.801 *et. seq.*), ARM 17.8.1111, ARM 17.8.759, and ARM 17.8.1106. Consistency with the national goal is assured through ARM 17.8.752 (BACT) and ARM 17.8.749.

BACT is required on all permitted sources within Montana which allows the Department to take into account those non-air quality values described in Paragraph (c). ARM 17.8.749 allows conditions to be placed on the permit and states that no permit may be granted any source that is not expected to comply with all state and federal regulations.

ARM 17.8.1110 provides the Department with authority to require both pre and post construction monitoring.

Replaces Page: 15-7

Dated: May 20, 1985

October 20, 2011

Page: 7 of 8

SMOKE MANAGEMENT

The Department considers smoke management techniques for agriculture and forestry management burning purposes as set forth in 40 CFR Part 51.308(d)(3)(v)(E). The Department considers the visibility impact of smoke when developing, issuing, or conditioning permits and when making dispersion forecast recommendations through the implementation of Title 17, Chapter 8, subchapter 6, ARM, Open Burning.

PLAN REVIEW

The Department, in consultation with FLMs, will periodically review and may modify this Plan for the purpose of assessing progress toward meeting the national goal of visibility protection.

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